

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

DAVID DURAN,	§
Petitioner,	§
	§
VS.	§ CIVIL ACTION NO.4:07-CV-243-Y
	§(Consolidated with 4:07-CV-244-Y)
NATHANIEL QUARTERMAN, Director,	§
T.D.C.J.,Correctional	§
Institutions DIV.,	§
Respondent.	§

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this consolidated action brought by petitioner David Duran under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on June 27, 2007; and
3. The Petitioner's written objections to the proposed findings, conclusions and recommendation of the United States magistrate judge filed on July 20, 2007.

The Court, after de novo review, concludes that Petitioner's objections must be overruled, and that the petition for writ of habeas corpus should be dismissed with prejudice as time-barred under 28 U.S.C. § 2244, for the reasons stated in the magistrate judge's findings and conclusions.¹

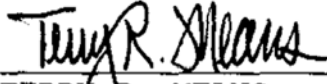
¹Along with his written objections, petitioner Duran has filed a Motion for Relief from Waiver with an affidavit in support. By this motion, Duran argues that during the periods he was housed in juvenile detention, he did not have access to law libraries, law books, or to someone trained in the law, such that he "could not know or have reason to know of the events giving rise to this claim while they were occurring." He argues that the inadequacies entitle him to contend that his limitations commencement date should be later under either 28 U.S.C. §§ 2244(d)(1)(c) or (D). Such motion must be denied, as Duran has not set forth facts sufficient to invoke either of those provisions.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Duran's Motion for Relief from Waiver [docket no. 18] is DENIED.

David Duran's petition for writ of habeas corpus is DISMISSED WITH PREJUDICE.

SIGNED July 24, 2007.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE